

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 201902470	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/14/2019 10:54 AM	Location of Incident: [REDACTED]	Precinct: 102	18 Mo. SOL 9/14/2020	EO SOL 5/1/2021	
Date/Time CV Reported Thu, 03/21/2019 11:58 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/21/2019 11:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Giuseppe Sollecito	04917	961312	102 PCT
2. POM Dominick Abate	01677	965643	102 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Giuseppe Sollecito	Abuse: Police Officer Giuseppe Sollecito entered § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
B.POM Dominick Abate	Abuse: Police Officer Dominick Abate entered § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
C.POM Giuseppe Sollecito	Abuse: Police Officer Giuseppe Sollecito forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
D.POM Dominick Abate	Abuse: Police Officer Dominick Abate forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

### Case Summary

On March 21, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone § 87(2)(b). On June 10, 2019, the case was closed as complainant unavailable § 87(2)(b).

On August 26, 2019, § 87(2)(b) appeared at the CCRB as a walk-in and reopened this complaint.

On March 14, 2019, at approximately 10:54 a.m., Police Officer Giuseppe Sollecito and Police Officer Dominick Abate, both of the 102<sup>nd</sup> Precinct, entered § 87(2)(b)'s apartment located at § 87(2)(b) in Queens (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). PO Sollecito and PO Abate forcibly removed § 87(2)(b) to the hospital (**Allegations C and D: Abuse of Authority, § 87(2)(g)**). § 87(4-b), § 87(2)(g)

§ 87(2)(b) was not arrested or summonsed during this incident.

Body-worn camera footage was obtained, which will be discussed in further detail below.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Giuseppe Sollecito entered § 87(2)(b) in Queens.**

**Allegation (B) Abuse of Authority: Police Officer Dominick Abate entered § 87(2)(b) in Queens.**

The investigation established the following facts:

On March 14, 2019, at approximately 10:54 a.m., § 87(2)(b)'s legal guardian, § 87(2)(b) went to § 87(2)(b)'s apartment. § 87(2)(b) called 911, as her apartment was robbed in October 2018 and § 87(2)(b) was present for the robbery. PO Sollecito and PO Abate arrived and spoke with § 87(2)(b) outside the door of § 87(2)(b)'s apartment. § 87(2)(b) informed the officers that she is § 87(2)(b)'s legal guardian and provided court paperwork proving so. § 87(2)(b) also informed the officers that § 87(2)(b) suffers from paranoid schizophrenia and is not taking her medication. PO Sollecito knocked on the door and § 87(2)(b) fully opened it. PO Sollecito, PO Abate, and § 87(2)(b) entered § 87(2)(b)'s apartment. PO Sollecito and PO Abate believed § 87(2)(b) was an emotionally disturbed person (EDP). EMTs as well as the officers' supervisor, Lieutenant Daniel Lunny of the 102<sup>nd</sup> Precinct, arrived. PO Abate handcuffed § 87(2)(b) and EMTs transported § 87(2)(b) to § 87(2)(b), where she was hospitalized through June 2019.

§ 87(2)(b) (BR 04) testified that when she opened the door, she spoke to the officers about the robbery in October 2018, but the officers did not believe that § 87(2)(b) was robbed. § 87(2)(b) then walked back to her bedroom to obtain medical records to prove that there was "nothing wrong" with her and PO Sollecito and PO Abate followed her back to her room.

PO Sollecito's body-worn camera footage (BR 05-06), which can be viewed in its entirety in IA 54, begins with the officers outside the door speaking with § 87(2)(b). When the audio component of the video begins, PO Sollecito says over the radio, "It's actually going to be an EDP. Can I have a bus roll over here?" § 87(2)(b) states that she has a job and asks if she can show paperwork. § 87(2)(b) says, "Can I come in?" § 87(2)(b) who is not visible, says, "Then come in and cancel this job of some ambulance coming." PO Sollecito says, "We'll all come in and talk about it, all right?" § 87(2)(b) replies, "We don't want everyone to come in." PO Sollecito reiterates, "We can't leave. We're going to come in and talk about it." PO Sollecito appears to cross the threshold of the door. § 87(2)(b) is now visible and is holding the door open. § 87(2)(b)

turns around and walks farther into the apartment, commenting that she has a job (<<10:18:17 – 10:18:45>>).

PO Sollecito (BR 07) testified that after he spoke with § 87(2)(b) and knocked on the door, § 87(2)(b) immediately opened the door. PO Sollecito asked § 87(2)(b) if he could come in and speak with her and § 87(2)(b) told him that he could. PO Sollecito reviewed his body-worn camera footage, in relevant part, and testified that he was not sure if § 87(2)(b) ever recanted her previous statement of, “We don’t want everyone to come in,” and verbally consented to the officers and § 87(2)(b) entering the apartment. PO Sollecito confirmed that § 87(2)(b)’s statement regarding entering and cancelling the ambulance was an indication that the officers could go inside her apartment.

PO Abate (BR 08) testified that after § 87(2)(b) opened the door, the officers entered, but did not recall if the officers asked to enter § 87(2)(b)’s apartment. Other than fully opening the door, PO Abate did not recall § 87(2)(b) indicating that the officers could enter the apartment.

Consent to enter a home may be established by conduct as well as words. A gesture of opening the door, leaving it wide open, and walking away from it can be interpreted by police to consist of tacit approval for them to enter. People v. Brown 234 A.D.2d 211 (1996) (BR 09).

§ 87(2)(g)  
[REDACTED]

**Allegation (C) Abuse of Authority: Police Officer Giuseppe Sollecito forcibly removed § 87(2)(b) to the hospital.**

**Allegation (D) Abuse of Authority: Police Officer Dominick Abate forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) testified that once the officers were inside, she spoke with them in her bedroom, but did not remember the conversation. The officers told § 87(2)(b) that she had to go to the hospital and get medication. An unidentified officer handcuffed § 87(2)(b) and removed her outside to the ambulance, where EMTs spoke with her, but § 87(2)(b) did not remember this conversation. The EMTs took § 87(2)(b) to § 87(2)(b), where she was hospitalized until June 2019. § 87(2)(b) was given psychiatric medication for bipolar disorder, but § 87(2)(b) denied having any kind of psychiatric disorder. § 87(2)(b) refused to sign HIPAA forms and therefore her medical records were not obtained and § 87(2)(b) was not contacted.

As PO Sollecito and PO Abate requested EMS before Lieutenant Lunny arrived on scene, PO Sollecito and PO Abate were identified as the subject officers of Allegations C and D.

PO Sollecito and PO Abate provided consistent testimony that because of the information § 87(2)(b) provided, to wit, that § 87(2)(b) had a psychiatric diagnosis and was not taking her prescribed medication, and their observations of § 87(2)(b) pacing around the apartment and her inability to have a conversation with the officers, they believed § 87(2)(b) was an EDP. PO Sollecito added that § 87(2)(b) told him she was there because she had not heard from § 87(2)(b). PO Abate further testified that § 87(2)(b) stated that she wanted § 87(2)(b) to go to the hospital.

PO Sollecito's body-worn camera footage (BR 05-06), located in IA 54, shows PO Sollecito speaking with § 87(2)(b) at the beginning of the footage, but the audio component is not active at this time. Later in the footage, § 87(2)(b) confirms that § 87(2)(b) has paranoid schizophrenia and is not taking her medication. § 87(2)(b) does not provide any additional details to PO Sollecito as to § 87(2)(b)'s current condition or what she would like the officers to do in regard (see player time stamp 02:18 – 02:27).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 01).
- PO Sollecito has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Abate has been a member of service for one year and has been a subject in one prior CCRB complaint and one allegation, which was substantiated.
  - 201904666 involved an allegation of refusal to process civilian complaint against PO Abate. The Board recommended command level instructions and the NYPD has not yet imposed discipline.
  - § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.

- § 87(2)(b) filed a Notice of Claim with the City of New York, but did not list her claims or the amount of money she is seeking as redress (BR 02). § 87(2)(b)'s claim was disallowed because she did not file the claim within 90 days of the incident.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 03).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date